

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

| | | |
|-----------------------|---|-------------------|
| JERALD SHOUSE, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | NO. CIV-05-0831HE |
| |) | |
| ROBERT PRICE, et al., |) | |
| |) | |
| Defendants. |) | |


ORDER

Plaintiff Jerald Shouse, a state prisoner, instituted this §1983 action alleging a violation of his constitutional rights. Consistent with 28 U.S.C. §636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Doyle W. Argo, who has recommended that the plaintiff's claims against defendants Jon Boyd, Jeffery Lynch and Gary Wingo be dismissed. The plaintiff omitted these defendants from his second amended complaint, which, the magistrate judge noted, superseded the prior complaint.

The plaintiff failed to object to the Report and Recommendation and, accordingly, waived his right to appellate review of the issue it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996), *See* 28 U.S.C. § 636(b)(1)(c); LcvR72.1(a). Accordingly, the court adopts Magistrate Judge Argo's Report and Recommendation and **DISMISSES** the plaintiff's claims against defendants Jon Boyd, Jeffery Lynch and Gary Wingo without prejudice.

IT IS SO ORDERED.

Dated this 7th day of Dec., 2006.



JOE HEATON
UNITED STATES DISTRICT JUDGE